U.S. Department of Labor

Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

In the Matter of:

KURT DAHL, **ARB CASE NO. 97-059**

COMPLAINANT, **ALJ CASE NO. 96-ERA-39**

v. **DATE: March 7, 1997**

ILLINOIS POWER COMPANY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD[1/]

FINAL ORDER APPROVING SETTLEMENT AND DISMISSING COMPLAINT

This case arises under the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. § 5851 (1988 and Supp. IV 1992). The parties submitted a Motion for Approval of Settlement Agreement and Dismissal with Prejudice seeking approval of the settlement and dismissal of the complaint. The Adminisrative Law Judge issued a Recommended Decision and Order on February 18, 1997 approving the settlement.

The request for approval is based on an agreement entered into by the parties, therefore, we must review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. 29 C.F.R. § 24.6. *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

[1/] On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996). Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the Administrative Review Board now issues final agency decisions. Final procedural revisions to the regulations implementing this reorganization were also published on May 3, 1996. 61 Fed. Reg. 19982.

Review of the agreement reveals that it may encompass the settlement of matters under laws other than the ERA. See Paragraph 2.1. As stated in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No. 86-CAA-1, Sec. Order, Nov. 2, 1987, slip op. at 2:

> [The Secretary's] authority over settlement agreements is limited to such statutes as are within [the Secretary's] jurisdiction and is defined by the applicable statute. *See Aurich v. Consolidated Edison Company of New York, Inc.*, Case No. [86-]CAA-2, Secretary's Order Approving Settlement, issued July 29, 1987; *Chase v. Buncombe County, N.C.*, Case No. 85-SWD-4, Secretary's Order on Remand, issued November 3, 1986.

We have therefore, limited our review of the agreement to determining whether the terms thereof are a fair, adequate and reasonable settlement of Complainant's allegation that Respondent violated the ERA.

Paragraph 4.1 provides that the agreement will be governed by the laws of Illinois. We construe this to except the authority of the Secretary of Labor and any Federal court which shall be governed in all respects by the laws and regulations of the United States. *See Phillips v. Citizens' Ass'n for Sound Energy*, Case No. 91-ERA-25, Final Ord. of Dismissal, Nov. 4, 1991, slip op. at 2.

We find that the agreement, as so construed, is a fair, adequate, and reasonable settlement of the complaint. Accordingly, we APPROVE the agreement and DISMISS THE COMPLAINT WITH PREJUDICE. *See* Settlement Agreement ¶ 1.2.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member